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No. 03-871

Supreme Court, U.S.
FILED
APR 19 2004
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In The
Supreme Court of the United States

HAROLD MCENROE and NOLA GRANNIS,

Petitioners,

v.

LUIS RAMIREZ,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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RESPONDENT'S BRIEF IN OPPOSITION

Petitioners request that this Court grant certiorari to resolve whether, under the favorable termination rule announced in *Heck v. Humphrey*, 512 U.S. 477 (1994), a state prisoner's § 1983 damages action which challenges an administrative disciplinary sentence – but which does not challenge the validity or duration of the prisoner's incarceration – must allege that the disciplinary sentence was invalidated in a separate, prior proceeding. Because the Court decided this question definitively this term in *Muhammad v. Close*, 124 S. Ct. 1303 (2004) – and because the Court of Appeals' opinion in this case comports in all respects with *Muhammad* – certiorari in this case should be denied.

COUNTERSTATEMENT OF THE CASE

A. District Court Proceedings

On August 31, 1999, Respondent Luis Ramirez ("Ramirez") filed, in forma pauperis, a civil rights action under 42 U.S.C. § 1983 in the United States District Court for the Eastern District of California. (C.A. Excerpt R. 1). His complaint alleges that state prison personnel violated Ramirez's constitutional rights during a hearing and subsequent administrative appeals. (C.A. Excerpt R. 13-14). These proceedings resulted in a sentence of administrative segregation, but did not increase the length or duration of Ramirez's prison sentence. (C.A. Excerpt R. 13-14). Ramirez finished serving his term of segregation on September 9, 1999. (C.A. Excerpt R. 74).

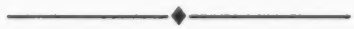
On December 13, 1999, a magistrate judge recommended that the Complaint be dismissed. (C.A. Excerpt R.

39-44). In relevant part, the magistrate judge reasoned that *Edwards v. Balisok*, 520 U.S. 641 (1997), required Ramirez to demonstrate that his disciplinary sentence had been invalidated before he could seek damages under § 1983. (C.A. Excerpt R. 40-41, 43). On May 8, 2000, the District Court adopted that recommendation and dismissed the Complaint, without prejudice to Ramirez's ability to refile upon invalidation of the administrative segregation. (C.A. Excerpt R. 90-91).

B. Court of Appeals Proceedings

The United States Court of Appeals for the Ninth Circuit reversed the District Court. The Ninth Circuit held that, when a disciplinary sentence does not affect the fact or duration of incarceration, the favorable termination rule as laid out in *Heck* and *Edwards* does not apply. (Appendix to Petition for Writ of Certiorari ("App.") 13a). In such a situation, a § 1983 action for damages arising out of that disciplinary sentence may be asserted without first showing that the disciplinary sentence has been invalidated. (App. 13a).

The Ninth Circuit decision further discussed how it "also clarifies" certain Ninth Circuit cases about the availability of federal habeas corpus to challenge the conditions of a prisoner's confinement. (App. 13a-15a). However, Ramirez never sought federal habeas corpus relief in his § 1983 action. Thus, the Court of Appeals' discussion of this subject can only be characterized as dicta.



REASONS FOR DENYING THE WRIT

I. This Court's Decision In *Muhammad v. Close* Answers The Question Presented

This Court's decision in *Muhammad v. Close*, 124 S. Ct. 1303 (2004), resolves the question presented in this case. In *Muhammad*, this Court held that, where an administrative disciplinary sentence does not affect the fact or duration of a prisoner's incarceration, the prisoner may challenge the disciplinary sentence in a § 1983 damages action without first invalidating the sentence in a separate, prior proceeding. *See id.* at 1304-05, 1306. In so holding, this Court resolved the very question presented here, noting that "the incarceration that matters under *Heck* is the incarceration ordered by the *original judgment of conviction, not special disciplinary confinement* for infraction of prison rules." *Id.* at 1304 n. 1 (emphasis added).

II. The Court Of Appeals' Opinion Is Fully Consistent With This Court's Holding In *Muhammad*

The Ninth Circuit's opinion is fully consistent with this Court's holding in *Muhammad*. Like the prisoner in *Muhammad*, (*see id.* at 1306), Ramirez's § 1983 action challenges the imposition of a term of administrative segregation which did not involve the loss of good-time credits affecting release from prison. (C.A. Excerpt R. 13-14). *See also* Pet. at 3 ("Mr. Ramirez lost no sentence credits . . . "). Accordingly, like this Court in *Muhammad*, the Ninth Circuit held that Ramirez may assert a § 1983 claim for damages, because the disciplinary sanctions imposed on Ramirez do not affect the fact or duration of his confinement. (App. 15a-16a). Because the Court of Appeals' holding is virtually identical to this Court's

holding in *Muhammad*, certiorari in this case is both unnecessary and unwarranted.

III. Whether Habeas Corpus Relief Is Available To Review An Administrative Sentence Of Disciplinary Segregation Is Irrelevant To This Case And Thus Not Ripe For Review

The Petition additionally asks this Court to resolve whether an inmate may seek federal habeas corpus relief to challenge a prison disciplinary conviction and confinement that does not affect his release date from prison. (Pet. 5-7, 9-10). In this case, however, Ramirez never sought federal habeas corpus relief in his § 1983 action, and he was not required to do so. *See Muhammad*, 124 S. Ct. at 1304-05, 1306. Any purported circuit conflict as to whether habeas corpus is available to review an administrative sentence of disciplinary segregation is therefore irrelevant here, because the resolution of such a purported circuit conflict would not affect proceedings or the outcome in this case. *See id.* The purported circuit conflict as to habeas corpus availability is thus not ripe for review in the context of this case, and certiorari on this purported question should be denied.[1]

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[1] It is irrelevant that Ramirez unsuccessfully sought habeas corpus relief in the California *state* court system in a separate action. (C.A. Excerpt R. 72-73). The Petition for Writ of Certiorari speaks to the purported conflict in the Circuits over the availability of *federal* habeas corpus relief under 28 U.S.C. § 2254 to challenge an administrative disciplinary sentence. (Pet. 1-3, 6-7). As Ramirez never sought *federal* habeas corpus relief in his § 1983 action, the purported federal conflict is beside the point and is not ripe for review in this case.

CONCLUSION

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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